

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

THOMAS D. SILVA,

Petitioner,

v.

HAROLD D. GRAHAM,

Respondent.

MEMORANDUM & ORDER
13-CV-3314 (MKB) (LB)

MARGO K. BRODIE, United States District Judge:

Petitioner Thomas D. Silva, proceeding *pro se*, filed the above-captioned petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on June 6, 2013. (Pet. for Writ of Habeas Corpus, Docket Entry No. 1.) Petitioner's claim arose from a 2009 conviction in New York State Supreme Court, Kings County, following a bench trial convicting Petitioner of manslaughter in the first degree and assault in the second degree. (*Id.* at 1.) On March 12, 2014, the Court referred the petition to Magistrate Judge Lois Bloom for a report and recommendation in accordance with 28 U.S.C. § 636(b). (Order dated Mar. 12, 2014.) By report and recommendation dated August 14, 2014, Judge Bloom recommended that the Court deny the petition (the "R&R"). (R&R, Docket Entry No. 9.) No party has objected to the R&R.

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "[F]ailure to object timely to a magistrate judge's report may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object." *Eustache v. Home Depot U.S.A., Inc.*, 621 F. App'x 86, 87 (2d Cir. 2015) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38

(2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s Report and Recommendation if the party fails to file timely objections designating the particular issue.” (first citing *Cephas*, 328 F.3d at 107; and then citing *Mario v. P & C Food Markets, Inc.*, 313 F.3d 758, 766 (2d Cir. 2002))).

The Court has reviewed the unopposed R&R and, finding no clear error, the Court adopts Judge Bloom’s R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). The petition for a writ of habeas corpus is denied.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: February 1, 2017
Brooklyn, New York